Supreme Court, U.S.
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No. 05-281

IN THE

Supreme Court of the United States

BUDGET RENT-A-CAR SYSTEM, INC.,

Petitioner,

v.

NICOLE CHAPPELL, JOSEPH POWELL, III,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the Court of Appeals must follow the precedent set by this Honorable Court?

2. Whether a State's law may constitutionally be applied in a choice-of-law context to an occurrence outside of its borders when due process significant contacts requirements have not been met, and where the Appeals Court's due process analysis is based upon a misconstruction of the law in question that directly contravenes the interpretation of that State's highest court?

3. Whether this Court should resolve the direct decisional conflict within the Courts of Appeals created by the Third Circuit's choice-of-law decision?

DISCLOSURE OF CORPORATE AFFILIATIONS

Petitioner, Budget Rent-A-Car System, Inc., a Delaware corporation with its principle place of business in New Jersey, is a wholly-owned subsidiary of Cendant Corporation. Cendant Corporation, also a Delaware corporation with its principle place of business in New Jersey, is publicly traded on the New York Stock Exchange.

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Appendix E — Order Of The United States Court Of Appeals For The Third Circuit Denying Petition For Rehearing Dated May 31, 2005 ..... 61a

Petitioner, Budget Rent-A-Car System, Inc. ("Budget") respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Third Circuit entered on May 5, 2005.

OPINIONS BELOW

The published, precedential opinion of the United States Court of Appeals for the Third Circuit that gives rise to this petition is published at 407 F.3d 166 (3d Cir. 2005). The Third Circuit's Opinion and Judgment are reprinted in Appendix A 1a-24a. The opinion of the United States District Court for the Eastern District of Pennsylvania is reprinted in Appendix D 34a-57a. By Order dated and filed May 31, 2005, the Third Circuit denied Budget's petition for panel rehearing and en banc rehearing, without opinion. The denial of rehearing is reprinted in Appendix E 61a-62a.

STATEMENT OF JURISDICTION

The United States District Court for the Eastern District of Pennsylvania had jurisdiction over the declaratory judgment action below, on grounds of diversity under 28 U.S.C. § 1332(1). After the district court entered summary judgment in favor of Budget, defendant-respondent Nicole Chappell ("Chappell") moved for certification and entry of final judgment under Fed. R. Civ. P. 54(b). The district court granted Chappell's motion and entered final judgment, from which Chappell appealed. Exercising appellate jurisdiction under 28 U.S.C. § 1291, the Third Circuit reversed. On May 31, 2005, the Third Circuit denied Budget's petition for rehearing. Budget's present petition is timely-filed under Supreme Court Rule 13.1 since it was filed within 90 days of the Third Circuit's order denying rehearing.

The jurisdiction of the Court is invoked pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATE STATUTORY PROVISIONS INVOLVED

The Due Process Clause of the Fourteenth Amendment to the United States Constitution, Section 1:

> No State shall . . . deprive any person of life, liberty, or property, without due process of law.

N.Y. Vehicle & Traffic Law §§ 388(1), (4), which provides in pertinent part:

> **§ 388. Negligence in use or operation of vehicle attributable to owner**
>
> 1. Every owner of a vehicle used or operated in this state shall be liable and responsible for death or injuries to person or property resulting from negligence in the use or operation of such vehicle, in the business of such owner or otherwise, by any person using or operating the same with the permission, express or implied, of such owner . . .
>
> * * *
>
> 4. All bonds executed by or policies of insurance issued to the owner of any vehicle subject to the provisions of this section shall contain a provision for indemnity or security against the liability and responsibility provided in this section . . .

STATEMENT OF THE CASE

This petition seeks review of a decision of the United States Court of Appeals for the Third Circuit reversing a decision of the United States District Court for the Eastern District of Pennsylvania with respect to the District Court's choice-of-law ruling that New York's vicarious liability statute (§ 388) could not properly be applied to the accident at issue, occurring in Pennsylvania. The questions presented in this petition warrant review by this Court because:

1. the Third Circuit's decision is inconsistent with this Court's well-established precedent pertaining to the significant contacts standard for the constitutionality of choice-of-law rulings;

2. the Third Circuit misconstrued New York law in an arbitrary and fundamentally unfair way; and

3. the Third Circuit's decision created a direct decisional conflict with the United States Court of Appeals for the Fourth Circuit as well as a direct conflict with the New York Court of Appeals.

This case arose from an accident that occurred in Pennsylvania on February 15, 2002. Three days before, on February 12, 2002, a Michigan resident, Joseph Powell, III ("Powell"), rented a Nissan Xterra from Budget Systems, Inc., in Michigan.[1] The Nissan Xterra was registered to

[1] Budget Systems, Inc. was a Delaware corporation with its principal place of business in Illinois. Sometime after the accident, Budget Systems, with its parent Budget Group, attempted to reorganize in a Chapter 11 bankruptcy action. When that proved (Cont'd)

Budget in Michigan, although there was evidence that the registration may have had a defect. After renting the car, Powell drove to Long Island, New York to visit his girlfriend, Nicole Chappell ("Chappell"), a New York resident. Powell stayed until Chappell finished her work week, at which time Powell and Chappell left to return to Detroit, Michigan. While traveling through Pennsylvania, Powell lost control of the car, hit a guardrail and flipped the car. Powell escaped from the crash relatively unscathed but Chappell, who was thrown from the car, sustained broken bones and spinal injuries, which rendered her a paraplegic.

Chappell contended that Budget, as the vehicle owner, was vicariously liable for Powell's negligent driving. Budget filed the present declaratory judgment action in the United States District Court for Eastern District of Pennsylvania, seeking a determination as to which state's substantive law governed Chappell's vicarious liability claim. Budget and Chappell filed cross-motions for summary judgment on the choice-of-law issue. Chappell contended that New York law applied, and that, under N.Y. Vehicle & Traffic Law § 388(1), Budget, as the owner of the car, had unlimited vicarious liability for Powell's alleged negligence. Budget contended that Michigan law applied, under which Budget's potential vicarious liability for Powell's negligence was capped at $20,000.

(Cont'd)
unsuccessful, Cherokee Acquisition Corporation assumed Budget Systems' liability in this case. Soon after that transfer, Cherokee changed its name to Budget Rent-A-Car System, Inc. The District Court allowed the case to proceed with Budget Rent-A-Car System, Inc. as a substitute plaintiff for Budget Systems. (Appendix B, p. 6.) For purposes of this petition, the name "Budget" will refer either to Budget Systems, Inc. or Budget Rent-A-Car System, Inc., as appropriate.

The District Court resolved the summary judgment cross-motions by utilizing the choice-of-law principles of the forum state, Pennsylvania, as required by federal law. *See Klaxon Co. v. Stentor Electric Mfg. Co.*, 313 U.S. 487, 496 (1941.). Under Pennsylvania's choice-of-law rules, a court must first undertake an "interest analysis" among the competing, multiple jurisdictions in order to determine whether the case presents a true conflict (in which "the government interests of [multiple] jurisdictions would be impaired if their law were not applied"); a false conflict (in which only one jurisdiction's governmental interests would be impaired by the application of the other jurisdiction's law"), or is an unprovided-for case (in which neither jurisdiction's interests would be impaired if its law were not applied). *Lacey v. Cessna Aircraft Co.*, 932 F.2d 170, 187 & n. 15 (3d Cir. 1991). In cases presenting a true conflict, the court applies the law of the state having the most significant contacts or relationships with the particular issue. False conflicts call for application of the law of the only interested jurisdiction, and the law of the place of the wrong governs unprovided-for cases. *Id.*

Applying Pennsylvania's interest analysis, the District Court found that neither New York nor Michigan had an interest in applying their law to determine liability in the present case. The District Court concluded that the case should be analyzed under Pennsylvania law, as an unprovided-for case. In deciding that New York did not have an interest in applying its law (§ 388) to the accident, the District Court looked to *Fried v. Seippel*, 80 N.Y.2d 32, 599 N.E.2d 651, 587 N.Y.S.2d 247 (1992), a decision from New York's highest appellate court. In *Fried*, the New York Court of Appeals limited the application of § 388(1) to owners of vehicles that were subject to regulation in New York.